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Montana Division of Planning
and Economic Development
Dept. of Intergovernmental Relations

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(406) 449-3757

S P E C I A L -- Subdivision Bulletin

Since July 1, 1973, when the Montana Platting and Subdivision Act (Senate Bill 208) took effect, the Department of Intergovernmental Relations has received a number of inquiries concerning the new law. This is the first in a series of interpretive communications in which the Planning Division will answer the most frequently asked questions concerning S.B. 208 and share with local authorities the Division's understanding of the Act. The Division encourages questions concerning the new subdivision act for inclusion in future newsletters.

- Q. What major changes were brought about by the new subdivision law?
- A. Senate Bill 208 is basically a restatement of the principles and requirements of Montana's former subdivision law, Chapter 6, Title 11.

Under Chapter 6, as under S.B. 208, every city and county was required to adopt and enforce subdivision regulations. Similarly, the former law prohibited the sale of subdivided land (parcels containing less than 10 acres) until the subdivision had been surveyed, platted, approved by the governing body, and filed for record with the county clerk and recorder. In enacting S.B. 208, the Legislature clarified and elaborated on existing requirements and provided the framework, lacking in the former law, for administration and enforcement of subdivision controls.

Several major changes result from S.B. 208:

- The state is required to prepare minimum standards and regulations for subdivision review and control.
- Units of local governments must adopt subdivision regulations before July 1, 1974.
- Subdividers will be required to prepare an assessment of environmental and community impacts for local and state review.
- A public hearing must be held before local officials can act on a proposed subdivision.
- Persons failing to comply with the law are subject to substantial penalties.



Q. How will S.B. 208 change procedures for local subdivision review?

A. Because of the similarities between former Chapter 6, Title 11, and S.B. 208, local authorities may continue to employ essentially the same review methods they developed for use under the former law. Section 8 of S.B. 208, does, however, require that each plat be discussed at a public hearing (which may be a regular meeting of the county commissioners or a planning board), and Section 9 requires that final plats be reviewed by an examining land surveyor.

Q. Does S.B. 208 affect the sale of land legally subdivided or sold before July 1, 1973?

A. No. However, if subdivided land was not properly platted and the plat approved and filed under the former subdivision law, the unsold portion of the subdivision is subject to regulation under S.B. 208.

Q. The statute requiring the review and approval of sanitary facilities within subdivisions by the Department of Health and Environmental Sciences was recently amended by House Bill 465. How does this legislation relate to S.B. 208?

A. House Bill 465 provides that subdivided land may not be sold until a plat has been filed with the county clerk and recorder and that the clerk may not accept a plat for filing until it has been approved and certified by the Department of Health. Although a subdivision plat may have been approved by the local governing body under S.B. 208, it is not entitled to filing until the requirements of House Bill 465 are also met. The two laws operate independently and carry separate, cumulative penalties for violations.

Q. Can local authorities review subdivision plats before they adopt subdivision regulations pursuant to S.B. 208?

A. Yes. It is important to note that although the Act allows local authorities until July 1, 1974, to adopt subdivision regulations, the requirement that they review and approve or disapprove subdivision plats is now in effect whether or not they have adopted such regulations. To facilitate and provide an objective basis for this review, the Planning Division encourages the adoption of regulations as soon as possible. Division personnel will provide assistance to local governments in preparing local regulations.

Q. What is the Division of Planning & Economic Development doing to develop the regulations required by S.B. 208?

A. The Montana Subdivision and Platting Act has charged the Planning Division with promulgating administrative rules in two distinct subject areas. First, the Act directs that the Division prescribe uniform standards for survey monumentation and for the form, accuracy, and descriptive content of records of survey. A proposal for the surveying and platting requirements has been submitted to the Division by the Montana Association of Registered Land Surveyors.

The Division's primary rule-making responsibility under the Act is to prescribe minimum standards for local subdivision regulations by December 31, 1973. The staff is now preparing a set of standards and procedures for the submission and review of subdivision plats. On completion, this material will be combined with the requirements for survey monumentation and will be circulated for public and state and local agency review. To facilitate this review, the Division has contacted over 50 professional, local government and special interest organizations which will be asked to comment on a preliminary draft of the proposed rules. After considering the comments of these groups, the Division will prepare a final draft for full public review including public hearings. The regulations will be adopted only after completion of this review.

Q. When is the environmental assessment required?

- A. The Planning Division is required to prescribe rules and minimum regulations by December 31, 1973. Included in these regulations will be detailed criteria for an environmental assessment and community impact report which must be submitted by the subdivider with his preliminary plat. The inclusion of the environmental assessment in local regulations is not mandatory until July 1, 1974.

The Planning Division is working with several other state agencies to develop the detailed criteria for the assessment and procedures for state agency review. Until these criteria and procedures are developed, state agency review of proposed subdivisions will not be available.

It is anticipated that state agency review will be available by January 1, 1974 for those counties that have adopted either their own environmental assessment or the model adopted by the state. After July 1, 1974, the contents of the local assessment will have to meet the state minimum requirements and almost all proposed subdivisions will be reviewed by interested state agencies.

Q. Will the subdivider have to employ professional consultants to complete the environmental assessment?

- A. Although the subdivider may engage experts to assist him, the assessment will be designed as a questionnaire that he can complete himself. Most of the data required for the assessment may be obtained by the subdivider from local, state, and federal agencies. Possible sources for all the required information will be suggested to assist the subdivider. In some cases, the assessment may necessitate professional assistance but these requirements will utilize the services of the surveyor and the engineer already participating because of Montana platting and health laws.



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- Q. Will subdividers have to fill out one environmental assessment for review by the Health Department and another for S.B. 208?
- A. No. A single assessment form will be developed in cooperation with the Department of Health and Environmental Sciences that will meet the requirements of both that Department and the agencies reviewing proposed subdivisions under S.B. 208.
- Q. Will the state agencies reviewing proposed subdivisions under S.B. 208 have veto power over subdivisions?
- A. No. The state agencies participating in the review process will not have authority to approve or disapprove subdivisions. They may recommend against a subdivision or suggest design changes which would reduce adverse environmental and community impact. The review and comment, whenever possible, will contain reasonable suggestions for alternatives or solutions to correct any undesirable situations or conditions which have been identified.

The agency review will provide state expertise and information to aid decision making on the local level. Agency review will assist county commissioners and county or city-county planning boards in their review of proposed subdivisions. The reviewing agencies will, in essence, serve as consultants to local governments.

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